REMARKS

This Preliminary Amendment is concurrently filed with a Request for Continued Examination for the above-identified patent application. In the Final Office Action of 12/29/2006, the Examiner rejected claim 4 under 35 U.S.C. 112, second paragraph, rejected claims 2-3, 7, and 10-15 under 35 U.S.C. 102(b) as being anticipated by Hagelin et al. (US Patent 6,283,601, hereinafter Hagelin), rejected claims 2-3, 6-8 and 10-15 under 35 U.S.C. 102(e) as being anticipated by Aksyuk et al. (US Patent 6,366,414, hereinafter Aksyuk), rejected claims 4-6 and 8 under 35 U.S.C. 103(a) as being unpatentable over Hagelin in view of Miller et al. (US Patent 6,545,385, hereinafter Miller) and rejected claims 4-5 under 35 U.S.C. 103(a) as being unpatentable over Aksyuk in view of Miller. In this response, new claim 16 has been added. Accordingly, claims 2-8 and 10-16 will be pending after entry of this Amendment.

I. Rejection Under 35 U.S.C. 112

In the Final Office Action of 12/29/2006, the Examiner rejected claim 4 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Examiner stated that it is not clear how the "angle of twist per unit moment" recited in claim 4 relates to the two instances of angle of twist recited in parent claim 2. Applicants have removed the two instances of angle of twist in claim 2 to address the Examiner's 112 rejection of claim 4.

II. Rejections Under 35 U.S.C. 102

In the Office Action, the Examiner rejected claims 2-3, 7, and 10-15 under 35 U.S.C. 102(b) as being anticipated by Hagelin and further rejected claims 2-3, 6-8 and 10-15 under 35 U.S.C. 102(e) as being anticipated by Aksyuk. The Applicants have amended claim 2 and, as the

rejection might be applied to the amended claim, respectfully traverse. Claim 2 as amended recites a MEMS structure on a substrate, the MEMS structure comprising:

> an actuator body connected with a suspension system; and
> the suspension system connected with the substrate, the suspension system being configured to elevate the actuator body above the substrate in a motion substantially perpendicular to the substrate, the suspension system comprising:
> a set of one or more flexures, each flexure connecting the actuator body with the substrate;
> a set of one or more torsional elements, wherein each torsional element connects a corresponding flexure with the actuator body, comprises the only physical connection between the corresponding flexure and the actuator body, each torsional element having a length comprising the distance from the corresponding flexure to the actuator body, the length being greater than the width of the torsional element, wherein <u>each torsional element is not substantially parallel to the substrate when the actuator body is elevated above the substrate in a motion substantially perpendicular to the substrate.</u>
> [Emphasis added].

Applicants submit that neither Hagelin nor Aksyuk, alone or in combination, disclose, teach, or even suggest each recited feature of claim 2. For example, neither Hagelin nor Aksyuk disclose, teach, or even suggest that each torsional element is not substantially parallel to the substrate when the actuator body is elevated substantially perpendicular to the substrate.

Hagelin does not show in the figures nor discusses in the specification the position of the torsional element relative to the substrate when the actuator body is elevated above the substrate. As such, Hagelin does not teach or suggest that each torsional element is not substantially parallel to the substrate when the actuator body is elevated above the substrate in a motion substantially perpendicular to the substrate, as required in claim 2.

Figure 4 of Aksyuk shows an optical device 17 attached to beams 19, 21 being elevated over a substrate 13. However, Aksyuk does not teach or suggest that torsional elements connecting the beams with the optical device are <u>not</u> substantially parallel to the substrate when the optical device 17 is elevated above the substrate in a motion substantially perpendicular to the substrate, as required in claim 2. In fact, Figure 4 of Aksyuk shows that the spring elements that

couple the optical device 17 to the beams 19, 21 (shown as thin lines between the optical device 17 and the beams 19, 21) are substantially parallel to the substrate when the optical device 17 is elevated.

For the above reasons, amended claim 2 is believed to be in allowable form. Claims 3, 6-8 and 10-15 are dependent upon claim 2 and are allowable for at least the same reasons as claim 2.

II. Rejections Under 35 U.S.C. 103

In the Office Action, the Examiner rejected claims 4-6 and 8 under 35 U.S.C. 103(a) as being unpatentable over Hagelin in view of Miller and rejected claims 4-5 under 35 U.S.C. 103(a) as being unpatentable over Aksyuk in view of Miller. As discussed above, neither Hagelin nor Aksyuk, alone or in combination, disclose, teach, or even suggest each recited feature of claim 2. Miller does not cure the deficiencies of Hagelin and Aksyuk. Claims 4-6 and 8 are dependent upon claim 2 and allowable for at least the same reasons as claim 2.

III. New Claim

In this Amendment, new claim 16 has been added. Claim 16 is dependent upon claim 2 and allowable for at least the same reasons as claim 2.

CONCLUSION

Based on the foregoing remarks, Applicants believe that the rejections in the Office Action of 12/29/2006 are fully overcome and that the application is in condition for allowance. If the Examiner has any questions regarding the case, the Examiner is invited to contact Applicants' undersigned representative at the number given below.

Respectfully submitted,

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